

U.S. Department of Labor

Occupational Safety and Health Administration  
Washington, D.C. 20210



Reply to the attention of:

OCT 30 2007

Mr. Royce A. Ramsay  
Northern Natural Gas  
P.O.Box 3330  
Omaha, NE 68103-0330

CO. Y

Dear Mr. Ramsay:

Thank you for your April 6, 2007 letter to the Occupational Safety and Health Administration (OSHA) regarding the injury and illness recording and reporting requirements contained in 29 CFR Part 1904. Your letter specifically requests guidance on how to record cases involving loss of consciousness under Section 1904.7(a).

OSHA's regulation at 29 CFR 1904.7(a) states: "You must consider an injury or illness to meet the general recording criteria, and therefore to be recordable, if it results in any of the following: death, days away from work, restricted work or transfer to another job, medical treatment beyond first aid, or loss of consciousness. Section 1904.7(b)(6) provides that an employer must record every work-related injury or illness if a worker becomes unconscious, regardless of the length of time the employee remains unconscious.

#### Scenario

In your letter, you state that a pulmonary function test was conducted on a forty-two year old employee who was physically fit and had taken this test many times without incident. The test was administered near the end of an 8-hour work shift and was conducted in order to evaluate the employee's ability to wear a respirator. The employee became light headed and fainted (loss of consciousness) for a period of eight to ten seconds after completing the test. The fainting incident was entered on the OSHA 300 Log.

Your letter also included the following preamble discussion from OSHA's January 19, 2001 recordkeeping final rule:

"Thus, any time a worker becomes unconscious as a result of a workplace exposure to chemicals, heat, an oxygen deficient environment, a blow to the head, or some other workplace hazard that causes loss of consciousness, the employer must record the case." See 66 Federal Register 5994.

Based on this preamble language, you state that the case described above is not recordable because the employee's loss of consciousness did not result from a workplace exposure or hazard, and because the examples listed in the preamble are hazards and exposures that can be controlled by an employer through the implementation of an effective safety and health

program. In other words, you claim that you should not be required to record the loss of consciousness in this instance because the injury was not work-related and outside the control of the employer.

### Response

Section 1904.5(a) provides that an injury or illness must be considered work-related if an event or exposure in the work environment either caused or contributed to the injury or illness. Work-relatedness is presumed (**geographic presumption**) under Part 1904 for injuries and illnesses resulting from events or exposures occurring in the work environment, unless an exception in Section 1904.5(b)(2) specifically applies. Please keep in mind that recordable injuries and illnesses can occur at work that have no clear connection to a specific work activity, condition, or substance that is peculiar to the work environment. Instead, a causal connection is established by the fact that the injury would not have occurred **but for** the conditions and obligations of employment that placed the employee in the position in which he or she was injured or made ill (see 66 Federal Register 5946).

Based on the information included in your letter, the employee was conducting work activities (mandatory evaluation for respiratory protection) at the time of his fainting episode. This fact would establish the **geographic presumption** that the resulting injury is work related, unless one of the exemptions in Section 1904.5(b)(2) can be established. As such, the injury would be considered work-related and recordable, provided the injury meets the general recording criteria set forth in Section 1904.7.

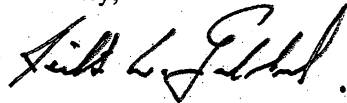
OSHA stated in the January 19, 2001 preamble to the final rule revising the Part 1904 regulation that in order for a loss of consciousness to be a recordable event, it must be the result of a workplace event or exposure. This is no different, in this respect, from any other injury or illness. The preamble goes on to state that fainting episodes resulting from mandatory medical procedures, such as blood tests mandated by OSHA standards, and mandatory physicals, would be recordable if they meet one or more of the recording criteria. (See 66 Federal Register 5994). The preamble discussion you quoted in your letter was not intended to be an exclusive list of workplace exposures and hazards that result in a recordable loss of consciousness case. Instead, the language was included in the preamble to provide some examples of the type of exposures and hazards that might result in loss of consciousness.

The OSHA recordkeeping system does not limit the recording of occupational injuries and illnesses to cases that are preventable, fall within the employer's control, or are covered by the employer's safety and health program. The issue is not whether the conditions could have, or should have, been prevented, or whether they were controllable, but simply whether they are work-related. We note that many circumstances that lead to a recordable work-related injury or illness may be "beyond the employer's control." OSHA's no-fault recordkeeping system requires recording work-related injuries and illnesses, regardless of the level of employer control or non-control involved.

Nevertheless, because such an injury or illness was caused, contributed to, or aggravated by an event or exposure at work, it must be recorded on the OSHA 300 Log (assuming that it meets one or more of the recording criteria and does not qualify for an exception to the geographic presumption). As a result, the loss of consciousness event described in your letter is a work-related injury that meets the general recording criteria in Section 1904.7, and therefore must be recorded on the OSHA 300 Log. Finally, Section 1904.7(b)(6) makes clear that an employer must record every work-related loss of consciousness, regardless of the length of time the employee remains unconscious, unless an exception in Section 1904.5(b)(2) specifically applies.

Thank you for your interest in occupational safety and health. We hope you find this information helpful. OSHA requirements are set by statute, standards and regulations. Section 8(c)(2) of the Occupational Safety and Health Act of 1970 (OSH Act) authorizes OSHA to issue regulations requiring employers to make and maintain accurate records of work-related injuries and illnesses. Our interpretation letters explain these requirements and how they apply to particular circumstances, but they cannot create additional employer obligations. This letter constitutes OSHA's interpretation of the requirements discussed. Note that our enforcement guidance may be affected by changes to OSHA rules. In addition, from time to time we update our guidance in response to new information. To keep apprised of such developments, you can consult OSHA's website at <http://www.osha.gov>. If you have any further questions, please contact OSHA's Office of Statistical Analysis at (202) 693-1875.

Sincerely,

A handwritten signature in black ink, appearing to read "Keith L. Goddard", with a stylized flourish at the end.

Keith L. Goddard, Director  
Directorate of Evaluation and Analysis